

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES D. MEYERS,)	
)	CASE NO. 5:13CV02170
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
WARDEN TIBBELS,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Respondent.)	<u>ORDER</u> [Regarding ECF No. 8]

Pro Se Petitioner James D. Meyers¹ filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) alleging three grounds for relief which challenge the constitutional sufficiency of his conviction for, among other crimes, three counts of rape, kidnapping, and aggravated burglary, all with firearm specifications. [ECF No. 1](#).

On October 2, 2013, the case was referred to Magistrate Judge Kenneth S. McHargh for preparation of a report and recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2\(b\)\(2\)](#).

On April 8, 2015, the magistrate judge issued a Report recommending that Petitioner's petition for a writ of habeas corpus pursuant to [28 U.S.C. § 2254](#) be denied. [ECF No. 8](#).

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of

¹ Although the caption of the case lists the petitioner's surname as "Meyers," he signed the petition as "Myers," and he is referred to as "Myers" throughout the state record. [ECF No.1 at 14](#); [ECF No. 7 at 2](#). The caption also lists Respondent as "Warden Tibbels", but the correct spelling and appellation is "Terry Tibbals, Warden." [ECF No. 7](#).

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those portions of a report and recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a report and recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a party's right to appeal the district court's judgment. [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949-50 (6th Cir. 1981). Absent objection, a district court may adopt a magistrate judges report without review. See [Thomas](#), 474 U.S. at 149.

In the instant case, objections to the Report were due by April 25, 2015.² Petitioner has not filed an objection. The Court finds that the Report is supported by the record, and agrees with the magistrate judge's recommendation.

Accordingly, the Court adopts the magistrate judge's Report and Recommendation. [ECF No. 8](#). Petitioner's petition is denied with prejudice. The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

April 30, 2015
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

² Under [Fed. R. Civ. P. 6\(d\)](#), three days must be added to the fourteen-day time period because Petitioner was served the Magistrate Judge's Report by mail. See [Thompson v. Chandler](#), 36 Fed. Appx. 783, 784 (6th Cir. 2002).